

Law Offices of  
**CRAIG B. FRIEDBERG, ESQ.**  
4760 SOUTH PECOS ROAD, SUITE 103  
LAS VEGAS, NEVADA 89121  
(702) 435-7968 Telecopier (702) 946-0887

CRAIG B. FRIEDBERG, ESQ.  
Nevada Bar No. 004606  
4760 South Pecos Road, Suite 103  
Las Vegas, Nevada 89121  
Phone: (702) 435-7968; Fax: (702) 946-0887

Attorney for Plaintiff STEVEN BENJAMIN

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

STEVEN BENJAMIN, on behalf of himself  
and all similarly situated persons,

Plaintiffs,

vs.

GLOBAL CREDIT & COLLECTION  
CORPORATION, a foreign corporation,  
DOES I-V inclusive and ROE Corporations  
VI-X, inclusive,

Defendants.

CASE NO.: 2:11-cv-01840

**CLASS ACTION COMPLAINT**

**EIGHT PERSON JURY  
DEMANDED**

Plaintiff, STEVEN BENJAMIN (hereinafter referred to as "Plaintiff" or  
"Benjamin"), by and through his undersigned attorney, alleges upon knowledge as to  
himself and his own acts, and as to all other matters upon information and belief, and  
brings this complaint against the above-named Defendant and in support thereof,  
alleges the following:

**PRELIMINARY STATEMENT**

1. This is a claim for actual, statutory and exemplary damages brought by the  
named Plaintiff, on his own behalf and on behalf of all others similarly situated, against  
Defendant GLOBAL CREDIT & COLLECTION CORPORATION (hereinafter "GCCC" or  
"Defendant") of the Fair Debt Collection Practices Act (hereinafter referred to as the  
"FDCPA"), 15 U.S.C. §1692, *et seq.*, and Nevada Revised Statutes (hereinafter "NRS"),  
Chapters 649 *et seq.* and 598 *et seq.*, as amended, all of which prohibit debt collectors  
from engaging in abusive, deceptive, harassing, unfair, and illegal practices.

*Law Offices of*  
**CRAIG B. FRIEDBERG, ESQ.**  
4760 SOUTH PEGAS ROAD, SUITE 103  
LAS VEGAS, NEVADA 89121  
(702) 435-7968 Telecopier (702) 946-0887

## **JURISDICTION AND VENUE**

2. Jurisdiction of this Court is invoked under 15 U.S.C. §1692k(d) and 28 U.S.C. §1331, and supplemental jurisdiction exists for the state law claims under 28 U.S.C. § 1367.

3. Venue in this district is proper because Plaintiff(s) reside in Nevada. Venue is also proper in this district since the acts and transactions that give rise to this action occurred, in substantial part, in this district.

## **PARTIES**

4. Benjamin is a natural person who resides in Nevada.

5. Benjamin is a "consumer" as defined in the Act at 15 U.S.C. §1692a(3).

6. Benjamin allegedly owes a (past-due) consumer "debt" as defined by 15 U.S.C. § 1692a(5) and NRS 649.010.

7. GCCC is a foreign corporation, the principal purpose of whose business is the collection of debts.

8. GCCC operates a debt collection agency from its principal place of business in Williamsville, NY.

9. GCCC regularly collects or attempts to collect consumer debts owed or due or asserted to be owed or due another and is a "debt collector" as defined by 15 U.S.C. § 1692a(6).

10. Plaintiff is unaware of the true names and legal capacities, whether individual, corporate, associate, or otherwise, of the Defendants DOES I-V and ROE Corporations VI-X, inclusive, sued herein, and therefore sues Defendants by such fictitious names.

11. Plaintiff is informed and believes, and thereon alleges, that each of the Defendants designated herein as DOES I-V and ROE Corporations VI-X, are in some way legally responsible and liable for the events referred to herein, and proximately caused the damages alleged herein.

12. Plaintiff prays leave to insert said Defendants' true names and legal

*Law Offices of*  
**CRAIG B. FRIEDBERG, ESQ.**  
 4760 SOUTH PEGAS ROAD, SUITE 103  
 LAS VEGAS, NEVADA 89121  
 (702) 435-7968 Telecopier (702) 946-0887

capacities when ascertained.

13. At all times material hereto, and in doing the acts and omissions alleged herein, the Defendants and each of them, including DOES I-V and ROE Corporations VI-X, acted individually and/or through their officers, agents, employees, and co-conspirators, including the fictitious Defendants named herein, each of whom was acting within the purpose and scope of that agency, employment and conspiracy, and said acts and omissions were known to, and authorized and ratified by, each of the other Defendants.

14. Benjamin is informed and believes and thereon alleges that at all times mentioned herein each of the Defendants sued herein was the owner, partner, shareholder, manager, officer, director, agent, servant, and employee of his, her or its co-Defendants and in doing the things hereinafter mentioned was acting in the scope of his, her or its authority as such owner, partner, shareholder, manager, officer, director, agent, servant and employee, and with the permission, consent and/or ratification of his, her or its Defendants; and that each of said fictitiously named defendants, whether an individual, corporation, association or otherwise, is in some way liable or responsible to the Plaintiffs on the facts hereinafter alleged, and caused injuries and damages proximately thereby as hereinafter alleged.

15. All conduct of GCCC and/or Doe and/or Roe Corporation Defendants as alleged herein was on each other's behalf, within the course and scope of agency each for the other; each was an alter ego for the other and/or was in a partnership or joint venture with the other, and all conduct of each was within the course and scope of that agency, alter ego, partnership and/or joint venture, and as such, the corporate fiction should be disregarded.

#### **STATEMENT OF FACTS**

16. Benjamin repeats, realleges and incorporates by reference paragraphs one through fifteen, inclusive, above.

17. Starting on or about November 16, 2010, GCCC, mailed a collection letter

*Law Offices of*  
**CRAIG B. FRIEDBERG, ESQ.**  
 4760 SOUTH PEGAS ROAD, SUITE 103  
 LAS VEGAS, NEVADA 89121  
 (702) 435-7968 Telecopier (702) 946-0887

1 addressed to Benjamin.

2 18. Upon receipt of Defendant's letter, Plaintiff opened and read it.

3 19. The letter demanded payment of a consumer debt allegedly owed by  
 4 Plaintiff in the amount of \$6,977.35. The letter only provided the single figure for the  
 5 amount allegedly owed; it did not itemize what items made up the single figure of the  
 6 amount allegedly owed.

7 20. Benjamin is informed and believes, and on that basis alleges, that the  
 8 amount set forth in the letter is more than the principal amount allegedly owed to the  
 9 original creditor, and includes unspecified sums added by GCCC (or other non-creditor  
 10 entities) for interest, charges, fees and/or expenses which are incidental to the principal  
 11 amount allegedly owed to the original creditor ("incidental charges").

12 21. Benjamin is informed and believes, and on that basis alleges, that the letter  
 13 he received on or after November 16, 2010 is the initial debt collection letter from  
 14 Defendant.

15 22. NRS 649.375(2) prohibits a debt collector from collecting or attempting to  
 16 collect any amount other than the principal amount owed to the original creditor (or  
 17 which the original creditor was authorized to add to the principal amount by law or  
 18 contract between it and the consumer), unless, in the debt collector's first written  
 19 communication with the alleged debtor, it itemizes the incidental charges that have been  
 20 added to the principal amount allegedly owed to the original creditor.

## 21 **FIRST CAUSE OF ACTION**

### 22 **Violation of State Deceptive Trade Practices Act**

23 23. Plaintiff repeats, realleges and incorporates by reference, paragraphs one  
 24 through twenty-two, inclusive, above.

25 24. This Count is brought by Plaintiff, individually and on behalf of a class,  
 26 consisting of consumers with Nevada addresses who:

27 (a) within four years prior to the filing of this action;

28 (b) were sent a collection letter by GCCC;

Law Offices of  
**CRAIG B. FRIEDBERG, ESQ.**  
4760 SOUTH PEGOS ROAD, SUITE 103  
LAS VEGAS, NEVADA 89121  
(702) 435-7968 Telecopier (702) 946-0887

1 (c) in a form materially identical or substantially similar to the letter sent  
2 to the Plaintiff, wherein the amount claimed to be owed was not itemized;  
3 and

4 (d) the letter was not returned by the postal service as undelivered.

5 25. Under both Federal Rule of Civil Procedure (FRCP) 23 and Nevada Rules  
6 of Civil Procedure (NRCP) 23, a class action is appropriate and preferable in this case  
7 because:

8 (a) Based on the fact that the collection letter at the heart of this  
9 litigation is a mass-mailed form letter, the class is so numerous that joinder of all  
10 members is impractical.

11 (b) There are questions of law and fact common to the class that  
12 predominate over any questions affecting only individual class members. The principal  
13 question presented by this case is whether the letter sent by Defendant, violated various  
14 provisions of NRS Chapters 649 *et seq.* and 598 *et seq.*, by using any device, subterfuge,  
15 pretense or deceptive means or representations to collect a consumer debt.

16 (c) The only individual issue is the identification of the Nevada  
17 consumers who received the letter (i.e. the class members), a matter capable of  
18 ministerial determination from Defendants' records.

19 (d) Plaintiff's claims are typical of those of the class members. All are  
20 based on the same facts and legal theories.

21 (e) Plaintiff will fairly and adequately represent the class members'  
22 interests and he has retained counsel experienced in bringing class actions and  
23 collection abuse claims.

24 26. A class action is superior for the fair and efficient adjudication of the class  
25 members' claims. The members of the class are generally unsophisticated consumers,  
26 whose rights will not be vindicated in the absence of a class action. Prosecution of  
27 separate actions by individual members of the classes would also create the risk of  
28 inconsistent or varying adjudications resulting in the establishment of inconsistent or

Law Offices of  
**CRAIG B. FRIEDBERG, ESQ.**  
 4760 SOUTH PEGAS ROAD, SUITE 103  
 LAS VEGAS, NEVADA 89121  
 (702) 435-7968 Telecopier (702) 946-0887

1 varying standards for the parties and would not be in the interests of judicial economy.

2 27. If the facts are discovered to be appropriate, Plaintiff will seek to certify  
 3 this class under NRCP and/or FRCP 23(b)(3).

4 28. NRS 598 (deceptive trade practices) and 649 (collection agency practices),  
 5 in tandem, allows a state claim for deceptive trade practices where the collection agency  
 6 engages in harassing tactics, which has been defined in NAC 649.150 as "a violation by  
 7 any collection agency or collection agent of any of the provisions of 15 U.S.C. §§ 1692b to  
 8 1692j, inclusive" (i.e., the FDCPA).<sup>1</sup>

9  
 10 <sup>1</sup>N.R.S. 41.600 allows for an action by victims of fraud. It states in pertinent part:

11 1. An action may be brought by any person who is a  
 12 victim of consumer fraud.

13 2. As used in this section, "consumer fraud" means:

14 \* \* \*

15 (d) A deceptive trade practice as defined in NRS  
 16 598.0915 to 598.0925, inclusive.

17 NRS 598.0923(3)&(4) defines deceptive trade practices as conducting a business  
 18 in which it (3) "[v]iolates a state or federal statute or regulation relating to the sale or  
 19 lease of goods or services" or (4) by using "coercion, duress or intimidation in a  
 20 transaction;" NRS 598.092(8) defines deceptive trade practices as "knowingly  
 21 misrepresent[ing] the legal rights, obligations or remedies of a party to a transaction;"  
 22 and NRS 598.0915(15) defines deceptive trade practices as "knowingly mak[ing] any  
 23 other false representation in a transaction." Furthermore, NRS 598.0953 states that the  
 24 specific deceptive trade practices defined in NRS 598.0915 to 598.0925, inclusive, "are  
 25 in addition to and do not limit the types of unfair trade practices actionable at common  
 26 law or defined as such in other statutes in this state."

27 NRS 649.375(5) pertains to prohibited acts of collection agencies. It states, in  
 28 pertinent part, that a collection agency "shall not ... engage in any conduct that  
 constitutes harassment as defined by regulations adopted by the commissioner."

The regulations can be found in NAC 649.150, which states that:

The commissioner of financial institutions will consider *a*  
*violation by any collection agency or collection agent of any*  
*of the provisions of 15 U.S.C. §§ 1692b to 1692j, inclusive, as*  
*those sections existed on July 1, 1986, to be an act or*  
*omission inconsistent with the faithful discharge of the*  
*duties or obligations of a collection agency or collection*  
*agent and grounds for the suspension or revocation of the*  
*license of the collection agency or collection agent. [Banking*  
*Div., Harassment in Debt Collection Reg., eff. 1-17-*  
*79]—(NAC A by Admstr. of Financial Institutions, eff. 6-29-*

(continued...)

Law Offices of  
**CRAIG B. FRIEDBERG, ESQ.**  
 4760 SOUTH PEGAS ROAD, SUITE 103  
 LAS VEGAS, NEVADA 89121  
 (702) 435-7968 Telecopier (702) 946-0887

29. In addition, Defendant's acts and omissions violated NRS 649.370 (Violation of federal Fair Debt Collection Practices Act), NRS 649.375(1), (2) and (5) (Prohibited practices), and NRS 649.375(2).

30. Defendant acted in bad faith and unfairly with the intent to deprive Plaintiff(s) of their rights or property. Furthermore, Defendant knew of the probable harmful consequences of its wrongful acts and engaged in a willful and deliberate failure to act to avoid those consequences.

31. Defendant's violations of Nevada statutes render it liable to Plaintiff and the members of the class, for actual damages, exemplary damages, fees and costs.

## COUNT TWO

### Violations of Federal Fair Debt Collection Practices Act

32. Plaintiff repeats, realleges and incorporates by reference, paragraphs one through thirty-one, inclusive, above.

33. This Count is brought by Plaintiff, individually and on behalf of a class, consisting of consumers with Nevada addresses who:

(a) within one year prior to the filing of this action;

(b) were sent a collection letter by GCCC;

(c) in a form materially identical or substantially similar to the letter sent to the Plaintiff, wherein the amount claimed to be owed was not itemized; and

(d) the letter was not returned by the postal service as undelivered.

34. Under FRCP 23, a class action is appropriate and preferable in this case because:

(a) Based on the fact that the collection letter at the heart of this

---

<sup>1</sup>(...continued)

84; A by Comm'r of Financial Institutions, 5-19-88)  
 (Emphasis added.)

Thus, a judgment finding Defendants violated NRS 649.375, would also establish that it engaged in a deceptive trade practice, which is the basis of this claim for relief.



Law Offices of  
**CRAIG B. FRIEDBERG, ESQ.**  
 4760 SOUTH PEGOS ROAD, SUITE 103  
 LAS VEGAS, NEVADA 89121  
 (702) 435-7968 Telecopier (702) 946-0887

1 litigation is a mass-mailed form letter, the class is so numerous that joinder of all  
 2 members is impractical.

3 (b) There are questions of law and fact common to the class that  
 4 predominate over any questions affecting only individual class members. The principal  
 5 question presented by this case is whether the letter sent by Defendant, violated various  
 6 provisions of NRS Chapters 598 *et seq.* and 649 *et seq.*, and by doing so, thus violated  
 7 various provisions of the FDCPA, including but not limited to, 15 U.S.C. § 1692e, 1692f  
 8 and 1692g and their subsections.

9 (c) The only individual issue is the identification of the Nevada  
 10 consumers who received the letter (i.e. the class members), a matter capable of  
 11 ministerial determination from Defendants' records.

12 (d) Plaintiff's claims are typical of those of the class members. All are  
 13 based on the same facts and legal theories.

14 (e) Plaintiff will fairly and adequately represent the class members'  
 15 interests and he has retained counsel experienced in bringing class actions and  
 16 collection abuse claims.

17 35. A class action is superior for the fair and efficient adjudication of the class  
 18 members' claims as Congress specifically envisioned class actions as a principal means  
 19 of enforcing the FDCPA. See 15 U.S.C. 1692k. The members of the class are generally  
 20 unsophisticated consumers, whose rights will not be vindicated in the absence of a class  
 21 action. Prosecution of separate actions by individual members of the classes would also  
 22 create the risk of inconsistent or varying adjudications resulting in the establishment of  
 23 inconsistent or varying standards for the parties and would not be in the interests of  
 24 judicial economy.

25 36. If the facts are discovered to be appropriate, Plaintiff will seek to certify  
 26 the class under Rule 23(b)(3) of the Federal Rules of Civil Procedure.

27 37. Under the FDCPA, a debt collector cannot collect any amount (including  
 28 any interest, fee, charge, or expense incidental to the principal obligation) unless such



Law Offices of  
**CRAIG B. FRIEDBERG, ESQ.**  
 4760 SOUTH PEGAS ROAD, SUITE 103  
 LAS VEGAS, NEVADA 89121  
 (702) 435-7968 Telecopier (702) 946-0887

amount is expressly authorized by the agreement creating the debt or permitted by law. *Reichert v. Nat'l Credit Sys.*, 531 F.3d 1002 (9<sup>th</sup> Cir. 2008). The FDCPA also prohibits collection practices that violate state or federal laws. *Picht v. Jon R. Hawks, Ltd.*, 236 F.3d 446 (8th Cir. 2001); *Gaetano v. Payco*, 774 F. Supp. 1404 (D. Conn. 1990).

38. Defendant's collection letter violated numerous provisions of the FDCPA by attempting to collect or collecting incidental charges without first breaking out these incidental charges in violation of NRS 649.375(2), and thus, in violation of 15 U.S.C. §§ 1692e(2), 1692e(5), 1692f(1) and 1692g(a)(1).

39. Defendant's violations of 15 U.S.C. §§ 1692e, f and g render it liable to Plaintiff and the members of the class.

40. Defendant used false representations and deceptive means to collect a debt allegedly due to another, including, but not limited to, misrepresenting the character, amount or legal status of the alleged debt and threatening to take any action that cannot legally be taken, in violation of 15 U.S.C. § 1692e *et seq.*, rendering it liable to Plaintiff and the members of the class.

41. Defendant also used unfair or unconscionable means to collect a debt allegedly due to another, including, but not limited to, attempting to collect any amount not authorized by the agreement creating the debt or permitted by law, in violation of 15 U.S.C. § 1692f *et seq.*, rendering it liable to Plaintiff and the members of the class.

42. Also, Defendant's violations of § 1692g *et seq.* render it liable to Plaintiff and the members of the class.

43. As a result of Defendant's abusive, deceptive and unfair debt collection practices, Defendant is liable to Plaintiff and the members of the class for actual damages, statutory damages, costs and attorney fees.

#### **DEMAND FOR JURY TRIAL**

44. Please take notice that Plaintiff demands trial by jury in this action.

///

///

Law Offices of  
**CRAIG B. FRIEDBERG, ESQ.**  
4760 SOUTH PECOS ROAD, SUITE 103  
LAS VEGAS, NEVADA 89121  
(702) 435-7968 Telecopier (702) 946-0887

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully prays, that this Court grant the following relief in his favor, and on behalf of the class, and that judgment be entered against Defendant for the following:

- (1) For statutory damages;
- (2) For actual damages;
- (3) For exemplary damages;
- (4) A declaration that Defendant's form letter violates the FDCPA;
- (5) For reasonable attorney fees for all services performed by counsel in connection with the prosecution of this claim;
- (6) For reimbursement for all costs and expenses incurred in connection with the prosecution of this claim; and
- (7) For any and all other relief this Court may deem appropriate.

DATED this 15<sup>th</sup> day of November 2011.

Respectfully submitted by:

/s/ *Craig B. Friedberg, Esq.*  
4760 South Pecos Road, Suite 103  
Las Vegas, NV 89121  
Attorney for Plaintiff